IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH

AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.1461 of 2006

Dated: 13th June, 2006

Between:

P.Narsimhulu & others.

.. Petitioners

and

Divisional Cooperative Officer,

Kamareddy Cooperative Office,

Kamareddy & others.

.. Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

ORDER:

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This writ petition is filed seeking a Mandamus declaring that the respondents have no right to dismantle/remove the petitioners bunks, wherein they are running the business under the name and style of M/s Sangameshwara Engineering Works, M/s Bhagya Laxmi Photo Studio and M/s Deepak Photo Studio, adjacent to each other situated near Primary Agricultural Cooperative Credit Society (PACCS), Lingampet, Nizamabad district without following due process of law.

It is the case of the petitioners that they are running small bunks in the shops of PACCS Lingampet adjacent to each other and all of a sudden, the first respondent jumped into action and attempted to dismantle the bunks without following due process of law. Even the bunks are not situated on footpath or on the road or at any place inconvenient to public. They are very poor people and are sole breadwinners of their families and if the bunks are dismantled, they will starve to death. Therefore, the action of the respondents is arbitrary, illegal and liable to be declared as such.

The Primary Agricultural Cooperative Society, Lingampet, originally was not a party to the writ petition, subsequently it was impleaded as fourth respondent. The said society filed a detailed counter stating that the area of the operation of the society is large and Shatpally Sangareddy PACS is merged with the society. There are 16 shops, which are in tin sheds were leased out by the society. On 2.1.2004, eviction notices were given to the tenants to vacate the said shops within three months. In spite of repeated reminders, they did not vacate the shops. Meanwhile, 100 metric tones, godown and office building were sanctioned by the Integrated Cooperative Development Project, Nizamabad, Phase-II on 14.6.2005. Work order was given by the said Project to the Contractor on 16.1.2006 to construct godown cum office building in the society premises within three months. Once again the tenants were requested to vacate the shops. The tenants including the petitioners herein have addressed a common letter on 21.1.2006 to the Project Officer stating that they will

vacate by two days. Accordingly, out of 16 shops, 13 shops were vacated. A general body was convened on 1.2.2006, and petitioners attended the said general body and gave an undertaking that they will vacate by 5.2.2006. The petitioners have not disclosed before the general body that they have already filed the writ petition before this Hon'ble Court and obtained stay on 27.1.2006. The petitioners have not come to this Hon'ble Court with clean hands. They have suppressed the material facts that they were already given notice on 2.1.2004 and their undertaking letter on 21.1.2006 that they will vacate the premises. The writ petition itself is not maintainable and the petitioners have availed the remedy by approaching this Court instead of Civil Court.

Heard both sides and perused the material available on record.

It is not a case where the lease granted in favour of petitioners is still subsisting. It is also not a case that the lease is a statutory one. Therefore, the petitioners are not entitled for any notice before eviction. It is purely a contractual matter between the petitioners and the fourth respondent society. Therefore, as contended by the learned counsel for respondent No.4, the writ petition is misconceived and liable to be dismissed and apart from that there are no merits in the case.

Accordingly, the writ petition is dismissed. No order as to costs.

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C.V.RAMULU, J

Date: 13.6.2006

Note:

C.C. in (2) days.

B/o

DA

THE HON'BLE SRI JUSTICE C.V.RAMULU

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